

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

John Hamre,

Case No. 19-cv-2641 (WMW/LIB)

Plaintiff,

v.

REPORT AND RECOMMENDATION

Brian Melton, et al.,

Defendants.

This matter comes before the undersigned United States Magistrate Judge upon the routine supervision of the cases that pend before the Court in accordance with the provision of 28 U.S.C. § 636, and upon Plaintiff John Hamre's Application to Proceed in forma pauperis. [Docket No. 4].

In an Order dated November 13, 2019, this Court directed Plaintiff John Hamre to pay an initial partial filing fee in accordance with 28 U.S.C. § 1915. (See, Order [Docket No. 8]). Hamre was given thirty days to pay the initial partial fee of \$12.17. (Id.). Hamre was forewarned that if he failed to pay the initial partial filing fee, it would be recommended that this action be dismissed without prejudice for failure to prosecute. (Id.) (citing Fed. R. Civ. P. 41(b)).

That deadline has now passed, and Hamre has not paid the fee or communicated with the Court in any fashion since the Order was issued. Accordingly, this Court now recommends, in accordance with its prior November 13, 2019, Order, [Docket No. 8], that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute and failure to comply with this Court's November 13, 2019, Order. See, Henderson v. Renaissance Grand Hotel, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

Therefore, based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED THAT:**

1. This action be **DISMISSED without prejudice** under Federal Rule of Civil Procedure 41(b) for failure to prosecute and for failure to comply with this Court's November 13, 2019, Order; and
2. Hamre's Application to Proceed in forma pauperis, [Docket No. 2], be **DENIED as moot**.

Dated: January 24, 2020

s/Leo I. Brisbois
Hon. Leo I. Brisbois
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).